(1)

3 CF 102

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1040 OF 2003

PETITIONER : Ramji Das Joshi (Satnami) son of Bahru Das Joshi, aged 27 years, R/o. Village & Post Office Rauda, Gram Panchayat Rauda, Tahsil Dhamdha, Distt. Durg.

VERSUS

RESPONDENTS : 1. State of Chhattisgarh Through- The Secretary Panchayat and Ruler Development Department, D.K.S. Bhawan, G.E. Road, Raipur.

2. Collector, Durg.

P.R. No. 9243 Presented by Shri Ramkaj Agrawal dated 26.8.03

NOTARY - DURG (C.G.) INDIA

PETITION UNDER ARTICLE 226 OF CONSTITUTION OF THE INDIA.

PETITIONER

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P.1040/ **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	29-4-2005 On a mention being made, the matter is taken up for hearing. Mr. H.B. Agrawal, Senior Advocate with Mr. Pankaj Agrawal, Advocate for the petitioner. Mr. Sanjay Shyam Agrawal, Government Advocate for the State/ respondents. Heard both the counsel. The petitioner's case is that he was appointed as Panchayat Karmi vide order dated 27-10-1995 (Annexure P-1) by the Sarpanch, Gram Panchayat: Raunda, on the fixed honorarium at the rate of Rs.500/- per month. Without following the procedure as laid down in the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, and without conducting any enquiry, the petitioner's services have been terminated by respondent No.2 vide Annexure P-2 on the ground of negligence in performance of duty. Therefore, the impugned order Annexure P-2 be quashed. Opportunity to file reply was given to the State/respondents in the year 2003, but so far no return has been filed. Even as a last opportunity, on the request of learned Panel Lawyer on 5-5-2004, two weeks' time was allowed to file return. Even then also no return has been filed. Therefore, arguments were heard.	

(पान पलटें)

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आदेश पत्रक

मामला क्रमांक W.P.1040/ **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

It is admitted position that the petitioner being a Panchayat Karmi his services were governed by the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999, in respect of enquiry, and that has not been conducted which is evident from the termination order Annexure P-2 itself. As has been held by this Court in the matter of Prakash Chandra Patel vs. State of Chhattisgarh and others (W.P.No.594/2003), order passed on 15th March, 2004, before removing a Panchayat Karmi which comes under major penalty, procedure as envisaged in Rule 7 of the Rules, 1999, is required to be followed, and the same has not been followed in this case. Therefore, the impugned order is illegal, and the same is liable to be quashed on this ground only.

Mr. Sanjay Shyam Agrawal, learned Govt. Advocate argued that perusal of Annexure P-2 shows that the petitioner has been removed from the post of Panchayat Secretary and he has not been removed from the post of Panchayat Karmi. Therefore, the petitioner is not entitled for any relief.

In reply, Mr. H.B. Agrawal, learned Senior Advocate submitted that the petitioner has been removed from the post of Panchayat Karmi and he is not getting any salary. Drawing the attention of the Court on endorsement No.3, learned Senior Advocate argued that endorsement No.3, which has been made with reference to Sarpanch, Gram Panchayat: Medesara, is clear that for removal of the petitioner from the post of

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..... **विरुद्ध** .....

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Panchayat Karmi order be issued in accordance with law. Accordingly, the petitioner has been removed. Therefore, in the above circumstances, the argument advanced by learned Govt. Advocate Mr. Sanjay Shyam Agrawal is without any foundation. In the result, the petition is allowed and the order Annexure P-2 is quashed. The respondents are directed to take the petitioner in service with all consequential benefits. Consequently, M.(W.)P.No.908/2003 and I.A.No.2348/2004 stand disposed of. Parties are entitled for certified copy of this order. Sd/- L.C. Bhadoo Judge	

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